

House File 525 - Introduced

HOUSE FILE _____
BY D. OLSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring an annual cost-of-living adjustment for certain
2 weekly workers' compensation benefits for veterans.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2332YH 83
5 av/rj/24

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1 1 Section 1. Section 85.36, Code 2009, is amended to read as
1 2 follows:
1 3 85.36 BASIS OF COMPUTATION.
1 4 1. The basis of compensation shall be the weekly earnings
1 5 of the injured employee at the time of the injury. Weekly
1 6 earnings means gross salary, wages, or earnings of an employee
1 7 to which such employee would have been entitled had the
1 8 employee worked the customary hours for the full pay period in
1 9 which the employee was injured, as regularly required by the
1 10 employee's employer for the work or employment for which the
1 11 employee was employed, computed or determined as follows and
1 12 then rounded to the nearest dollar:
1 13 ~~1. a.~~ In the case of an employee who is paid on a weekly
1 14 pay period basis, the weekly gross earnings.
1 15 ~~2. b.~~ In the case of an employee who is paid on a biweekly
1 16 pay period basis, one-half of the biweekly gross earnings.
1 17 ~~3. c.~~ In the case of an employee who is paid on a
1 18 semimonthly pay period basis, the semimonthly gross earnings
1 19 multiplied by twenty-four and subsequently divided by
1 20 fifty-two.
1 21 ~~4. d.~~ In the case of an employee who is paid on a monthly
1 22 pay period basis, the monthly gross earnings multiplied by
1 23 twelve and subsequently divided by fifty-two.
1 24 ~~5. e.~~ In the case of an employee who is paid on a yearly
1 25 pay period basis, the weekly earnings shall be the yearly
1 26 earnings divided by fifty-two.
1 27 ~~6. f.~~ In the case of an employee who is paid on a daily or
1 28 hourly basis, or by the output of the employee, the weekly
1 29 earnings shall be computed by dividing by thirteen the
1 30 earnings, including shift differential pay but not including
1 31 overtime or premium pay, of the employee earned in the employ
1 32 of the employer in the last completed period of thirteen
1 33 consecutive calendar weeks immediately preceding the injury.
1 34 If the employee was absent from employment for reasons
1 35 personal to the employee during part of the thirteen calendar
2 1 weeks preceding the injury, the employee's weekly earnings
2 2 shall be the amount the employee would have earned had the
2 3 employee worked when work was available to other employees of
2 4 the employer in a similar occupation. A week which does not
2 5 fairly reflect the employee's customary earnings shall be
2 6 replaced by the closest previous week with earnings that
2 7 fairly represent the employee's customary earnings.
2 8 ~~7. g.~~ In the case of an employee who has been in the
2 9 employ of the employer less than thirteen calendar weeks
2 10 immediately preceding the injury, the employee's weekly
2 11 earnings shall be computed under ~~subsection 6 paragraph "f"~~,
2 12 taking the earnings, including shift differential pay but not
2 13 including overtime or premium pay, for such purpose to be the
2 14 amount the employee would have earned had the employee been so
2 15 employed by the employer the full thirteen calendar weeks
2 16 immediately preceding the injury and had worked, when work was
2 17 available to other employees in a similar occupation. If the
2 18 earnings of other employees cannot be determined, the
2 19 employee's weekly earnings shall be the average computed for
2 20 the number of weeks the employee has been in the employ of the

2 21 employer.
2 22 ~~8- 2.~~ If at the time of the injury the hourly earnings
2 23 have not been fixed or cannot be ascertained, the earnings for
2 24 the purpose of calculating compensation shall be taken to be
2 25 the usual earnings for similar services where such services
2 26 are rendered by paid employees.

2 27 ~~9- 3.~~ If an employee earns either no wages or less than
2 28 the usual weekly earnings of the regular full-time adult
2 29 laborer in the line of industry in which the employee is
2 30 injured in that locality, the weekly earnings shall be
2 31 one-fiftieth of the total earnings which the employee has
2 32 earned from all employment during the twelve calendar months
2 33 immediately preceding the injury.

2 34 a. In computing the compensation to be allowed a volunteer
2 35 fire fighter, emergency medical care provider, reserve peace
3 1 officer, volunteer ambulance driver, volunteer emergency
3 2 rescue technician as defined in section 147A.1, or emergency
3 3 medical technician trainee, the earnings as a fire fighter,
3 4 emergency medical care provider, reserve peace officer,
3 5 volunteer ambulance driver, volunteer emergency rescue
3 6 technician, or emergency medical technician trainee shall be
3 7 disregarded and the volunteer fire fighter, emergency medical
3 8 care provider, reserve peace officer, volunteer ambulance
3 9 driver, volunteer emergency rescue technician, or emergency
3 10 medical technician trainee shall be paid an amount equal to
3 11 the compensation the volunteer fire fighter, emergency medical
3 12 care provider, reserve peace officer, volunteer ambulance
3 13 driver, volunteer emergency rescue technician, or emergency
3 14 medical technician trainee would be paid if injured in the
3 15 normal course of the volunteer fire fighter's, emergency
3 16 medical care provider's, reserve peace officer's, volunteer
3 17 ambulance driver's, volunteer emergency rescue technician's,
3 18 or emergency medical technician trainee's regular employment
3 19 or an amount equal to one hundred and forty percent of the
3 20 statewide average weekly wage, whichever is greater.

3 21 b. If the employee was an apprentice or trainee when
3 22 injured, and it is established under normal conditions the
3 23 employee's earnings should be expected to increase during the
3 24 period of disability, that fact may be considered in computing
3 25 the employee's weekly earnings.

3 26 c. If the employee was an inmate as defined in section
3 27 85.59, the inmate's actual earnings shall be disregarded, and
3 28 the weekly compensation rate shall be as set forth in section
3 29 85.59.

3 30 ~~10- 4.~~ If a wage, or method of calculating a wage, is used
3 31 for the basis of the payment of a workers' compensation
3 32 insurance premium for a proprietor, partner, limited liability
3 33 company member, limited liability partner, or officer of a
3 34 corporation, the wage or the method of calculating the wage is
3 35 determinative for purposes of computing the proprietor's,
4 1 partner's, limited liability company member's, limited
4 2 liability partner's, or officer's weekly workers' compensation
4 3 benefit rate.

4 4 ~~11- 5.~~ In computing the compensation to be allowed an
4 5 elected or appointed official, the official may choose either
4 6 of the following payment options:

4 7 a. The official shall be paid an amount of compensation
4 8 based on the official's weekly earnings as an elected or
4 9 appointed official.

4 10 b. The earnings of the official as an elected or appointed
4 11 official shall be disregarded and the official shall be paid
4 12 an amount equal to one hundred forty percent of the statewide
4 13 average weekly wage.

4 14 ~~12- 6.~~ In the case of an employee injured in the course of
4 15 performing as a professional athlete, the basis of
4 16 compensation for weekly earnings shall be one-fiftieth of
4 17 total earnings which the employee has earned from all
4 18 employment for the previous twelve months prior to the injury.

4 19 7. In the case of a person who has served in the armed
4 20 forces of the United States on active federal service, the
4 21 basis of compensation for permanent total disability benefits
4 22 or death benefits shall increase on January 1 of each year for
4 23 compensation which becomes due that year by a percentage equal
4 24 to the cost-of-living adjustment made to disability benefits
4 25 payable by the United States social security administration in
4 26 December of the immediately preceding year.

4 27 EXPLANATION

4 28 This bill requires an annual cost-of-living adjustment for
4 29 weekly workers' compensation benefits payable for permanent
4 30 total disability or death for a person who has served in the
4 31 armed forces of the United States on active federal service.

4 32 The adjustment is to be by a percentage equal to the
4 33 cost-of-living adjustment made to disability benefits payable
4 34 by the United States social security administration in
4 35 December of the immediately preceding year.
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